

In re) Fair Hearing No. 16,546
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Appeal of)

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition and Health Access (formerly the Department of Social Welfare) terminating his eligibility for the VHAP Pharmacy program, but finding him eligible for V-Script.

1. The petitioner and his wife and have no minor dependents. The petitioner is disabled and has unearned income from Social Security. His wife has earned income from a full-time job. Their total gross monthly income exceeds \$2,000.

2. The petitioner was notified that his eligibility for VHAP Pharmacy would close on July 1, 2000 because his wife's income had caused him to become over income for that program, but that he had been found eligible for the V-Script program.

3. The Department calculated the petitioner's eligibility by adding together the family's income after all allowable deductions (a \$90 earned income disregard) and

comparing it to the total maximum income for the various VHAP programs (\$1,407 for VHAP Pharmacy and \$2110 for V-Script).

4. The petitioner agrees that the figures used by the Department are correct but feels that he should have received special consideration for eligibility due to his and his wife's very high medical, particularly pharmacy, bills. The petitioner must take medications each month for control of his seizures (following removal of a brain tumor); and although his wife has private health insurance, she also has high pharmacy expenses and must pay a sizable copay for them. VHAP Pharmacy only costs the petitioner a \$1-\$2 copayment for each prescription. V-Script requires a 50% copayment, and will cost him much more out-of-pocket each month for his medications.

ORDER

The decision of the Department is affirmed.

REASONS

All of the VHAP (Vermont Health Access Program) programs require that all earned wages and social security benefits of a disabled person and his spouse be counted in determining eligibility. See W.A.M. § 3201.61 (V-Script), W.A.M. § 3301.71 (VHAP Pharmacy) and W.A.M. § 4001.81 (VHAP). Under these regulations, the only deduction allowed in each program that is applicable to the petitioner's situation is a standard

employment expense deduction of \$90 for each wage earner. No deductions are allowed under any program for excessive medical expenses.

The calculation performed by the Department in the petitioner's case, which found a countable income of over \$2,000, is not in dispute. The regulations cut off eligibility for a two-person assistance group in the V-Script program at \$2,110 per month, but in the VHAP Pharmacy and VHAP programs at \$1,407 per month. See Procedures Manual §§ 2420 B (6) and (10). As such, the petitioner was correctly determined to be ineligible for all but V-Script, and the Department's decision must be upheld.¹ 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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¹The petitioner was advised to apply for General Assistance should he or his wife face a catastrophic situation with regard to their inability to obtain needed medication.